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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

944-001.038-1

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on October 10, 2007

Signature

Typed or printed Kathleen Sipos
name _____

Application Number

10/023,456

Filed

October 30, 2001

First Named Inventor

J. COSTA REQUENA

Art Unit

2154

Examiner

Mohammad SIDDIQI

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.

Signature

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

Keith R. Obert

Typed or printed name

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October 10, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.



*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT
Attorney Docket No. 944-001.038-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of: **Costa Requena** : Confirmation No.: **2266**

Serial No.: **10/023,456** : Examiner: **Mohammad SIDDIQI**

Filed: **October 30, 2001** : Art Unit: **2154**

For: SYSTEM AND METHODS FOR USING AN APPLICATION LAYER CONTROL PROTOCOL TRANSPORTING SPATIAL LOCATION INFORMATION PERTAINING TO DEVICES CONNECTED TO WIRED AND WIRELESS INTERNET PROTOCOL NETWORKS

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the final Office Action of July 17, 2007, please reconsider the rejections in light of the following remarks.

CERTIFICATE OF MAILING

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Dated

Kathleen Sipos

REMARKS

Claims 17-21 were examined by the Office, and in the final Office Action of July 17, 2007 all claims are rejected. With this response no claims are amended, added or cancelled. Claim 17 is the only independent claim. Applicant respectfully submits that the Office has committed clear error in rejecting the claims, because the cited references, alone or in combination, fail to disclose or suggest all of the limitations recited in the claims. Applicant respectfully requests reconsideration and withdrawal of the rejections in view of the following discussion.

This response is submitted along with a Notice of Appeal.

Claim Rejections Under § 103

In section 3, on page 2 of the Office Action claims 17-21 are rejected under 35 U.S.C. § 103(a) as unpatentable over Dalal et al. (U.S. Publ. Appl. No. 2002/0065894) in view of Armstrong et al. (U.S. Patent No. 6,807,423). Applicant respectfully submits that the cited references, alone or in combination, fail to disclose or suggest all of the limitations recited in claim 17. The cited references at least fail to disclose or suggest a central server responsive to presence information relating to a invited user registered at a presence server for use in deciding whether content is sent to the invited user, stored or refused, as recited in claim 17. The Office acknowledges on page 3 of the Office Action that Dalal does not disclose deciding whether content is sent to an invited user, stored or refused, and relies upon Armstrong for this teaching. However, Armstrong also fails to disclose or suggest this limitation recited in claim 17.

Claim 17 is directed to a system with a central server responsive to an invitation message from an inviting user for providing a presence query. Claim 17 further recites that the system also includes a presence server that is responsive to the presence query for providing presence information related to a registered user. The central server is responsive to the presence information from the presence server, and decides based on the presence information whether content is sent to the invited user, stored or refused.

In contrast to claim 17, Armstrong only discloses that when the PCP (10) receives a presence request it determines whether the requested watched party (13) is available for contact, and if the watched party (13) is unavailable the PCP (10) may inform the watching party (12) of this, or connect the watching party (12) to the watched party (13), or give a list of available

communication methods. See Armstrong column 6, lines 48-61. However, determining whether the watched party (13) is available is not the equivalent of determining how to handle content as recited in claim 17. Claim 17 recites that the central server decides whether to send, store or refuse content based on the presence information, and informing one party as to the availability of another part is not deciding how to handle content as recited in claim 17.

Furthermore, allowing watching parties (12) to send messages to watched parties (13) even when those watched parties (13) are not available on the communication network is not the same as determining whether content is sent, stored or refused, because no determination is made. See Armstrong column 7, lines 20-25. Instead, the forwarding of messages in Armstrong occurs based on a watched party's user parameters. In addition, Armstrong never discloses that content may be stored as recited in claim 17. In contrast to claim 17, Armstrong only discloses that watched party's (13) information and rules may be stored in the PCP (10). See Armstrong column 13, lines 45-46. However, the information and rules of the watched party are not content within the meaning of claim 17, because the information and rules are related to the profiles of the watched parties, i.e. how and when the parties may be contacted by watching parties (12). Therefore, contrary to the assertions of the Examiner, Armstrong also fails to disclose or suggest this limitation recited in claim 17, and the cited references even in combination cannot disclose or suggest claim 17. As such, the Office has committed clear error in rejecting claim 17, because all of the limitations recited in claim 17 are not disclosed or suggested by the cited references.

Claims 18-21 ultimately depend from independent claim 17, and are believed to be patentable at least in view of their dependencies.

Conclusion

Applicant respectfully submits that the present application is in condition for allowance, and such action is earnestly solicited. The undersigned hereby authorizes the Commissioner to charge Deposit Account No. 23-0442 for any fee deficiency required to submit this response.

Respectfully submitted,

Date: 10 October 2007



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